

Remarks

This paper is a response to the Office action mailed March 19, 2004.

The action objected to Figure 3 as improperly including a "Prior Art" legend. A copy of Figure 3 with the "Prior Art" legend removed accompanies this paper.

The action also objected to the specification as containing embedded hyperlinks and/or other forms of browser executable code. A number of changes are made in the specification to remove any such code.

The claims have been extensively rewritten to overcome prior art rejections included in the action.

Specifically, claim 1 has been amended to include the limitations of claim 4 and intervening claims 2 and 3. Claims 2 -4 have been canceled. Newly added claim 22 is a rewritten independent version of claim 5. Newly added claim 23 is a rewritten independent version of claim 8. Newly added claim 24 is a rewritten independent version of claim 11. Newly added claim 25 is a rewritten independent version of claim 15. Claim 5 - 21 have been canceled.

Claim 1, as amended, includes the limitations of claim 4. Claim 4 was rejected under 35 USC 103(a) over a hypothetical combination of the teachings of US Patent 6,457,142 - Klemm and the teachings of US Patent 6,356,559 - Doucette.

The Office action acknowledges that Klemm does not teach switching between synchronous and asynchronous transmission of data and attempts to remedy this admitted deficiency by citing Doucette. The problem with the hypothetical combination is that the Klemm

environment and the Doucette environment are so radically different that one of ordinary skill in the art would not only not think of trying to graft the synchronous/asynchronous capabilities of Doucette onto Klemm but almost certainly would not know how to accomplish it if he or she thought of it.

Klemm describes a point-to-point environment where the two end points of a connection establish synchronous or asynchronous modes of operation to control the exchange of data between the end points. Doucette describes a ring architecture environment in which both synchronous and asynchronous data is passed from one module to the next in the ring in a single direction. Tokens are passed from one module to the next along the ring to permit the changes between synchronous and asynchronous modes of data passing.

For a 35 USC 103 rejection to be proper, (1) something in the references themselves must suggest the combination and (2) the combination itself must be implementable by one of ordinary skill in the art. The proposed combination of Klemm and Doucette satisfies neither of these tests. The original rejection of claim 4 (and by inference newly added claim 22) cannot be sustained.

Newly added claim 22 is an independent version of original claim 5. This claim recites the use of different connections to transmit controls and application execution data. The Office action asserts that Klemm teaches, at column 2, lines 9-12, the use of different connections to transmit controls and application execution data. This assertion is not supported by the actual language in the Klemm specification. The only reasonable interpretation of the cited Klemm language is that it refers to the same connection for transmitting “supervision actions” and “data”. Any suggestion that Klemm is referring to two different connections is belied by Klemm’s Figure 2 which shows a single “persistent TCP/IP connection 206” between the supervisor agent 202 and the remote manager 205.

Any suggestion that Klemm is referring to two different connections originates in Applicant's application, not in the Klemm patent. Any rejection of claim 22 over Klemm, either taken alone or in combination with Doucette, would be improper.

Newly added claim 23 is based on original claim 8 recast in independent form. Claim 8 was rejected under 35 USC 103(a) over Klemm in view of Doucette and further in view of US patent 6,574,675 - Swenson. The reasons why any proposed combination of Klemm and Doucette are improper have already been provided in the discussion of newly added claim 22. The Swenson patent is not being cited as supposedly overcoming the deficiency of the proposed combination, which it doesn't. Swenson is cited for teaching a synchronous communication interface. Even if Swenson teaches a synchronous communication interface, it does not teach switching to such an interface if a synchronous event is recorded.

Any rejection of claim 23 over any possible combination of Klemm, Doucette and Swenson would be improper.

Newly added claim 24 includes the subject matter of claim 14 recast in independent form. Claim 14 was rejected on the same basis as original claim 4, now incorporated into amended claim 1. The reasons why the rejection of the subject matter of claim 4 were improper have already been given. Any rejection of the subject matter of newly added claim 24 over the same prior art references cited against claim 4 would be improper for the same reasons.

Newly added claim 25 includes the subject matter of claim 15 rewritten in independent form. Claim 15 was rejected over the same references (Klemm and Doucette) for the same reasons as original claim 5. The reasons why the rejection of claim 5 was improper have already been provided. For the same reasons, any rejection of the subject matter of newly added claim 25 would be improper.

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It is submitted that all claims in this application define patentable subject matter over the art of record. It is further submitted that the specification and drawings, as amended herein or previously, satisfy all statutory requirements. Therefore, it is believed that this application is in condition for allowance.

Respectfully Submitted,



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